



## CITY OF LODI

## COUNCIL COMMUNICATION

**AGENDA TITLE:** Ordinance No. 1666 Entitled, "An Ordinance Of The Lodi City Council Repealing And Reenacting Lodi Municipal Code Title 9, Public Peace, Morals And Welfare, Chapter 9.04.010, Relating To Alcoholic Beverage - Open Container In Public"

**MEETING DATE:** September 16, 1998

**PREPARED BY:** City Clerk

**RECOMMENDED ACTION:** Following reading by title, it would be appropriate for the City Council to adopt Ordinance No. 1666.

**BACKGROUND INFORMATION:** Ordinance No. 1666 entitled, "An Ordinance Of The Lodi City Council Repealing And Reenacting Lodi Municipal Code Title 9, Public Peace, Morals And Welfare, Chapter 9.04.010, Relating To Alcoholic Beverage - Open Container In Public" was introduced at the regular City Council meeting of September 2, 1998.

Pursuant to State statute, ordinances may be adopted five days after their introductions following reading by title.

This Ordinance has been approved as to form by the City Attorney.

**FUNDING:** None required.

  
Alice M. Reimche  
City Clerk

Attachment

**APPROVED:** \_\_\_\_\_  
H. Dixon Flynn -- City Manager

ORDINANCE NO. 1666

AN ORDINANCE OF THE LODI CITY COUNCIL  
REPEALING AND REENACTING LODI MUNICIPAL  
CODE TITLE 9, PUBLIC PEACE, MORALS AND  
WELFARE, CHAPTER 9.04.010, RELATING TO  
ALCOHOLIC BEVERAGE – OPEN CONTAINER  
IN PUBLIC

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BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

Section 1. Lodi Municipal Code Title 9, Public Peace, Morals and Welfare, Chapter 9.04.010 – Alcoholic Beverage – Open Container in Public - is hereby repealed and reenacted to read as follows:

**9.04.010 Alcoholic Beverage – Open Container in Public.**

No person shall drink or have in his possession an open container of any alcoholic beverage in the public right-of-way. Further, no person shall drink or have in his possession an open container of any alcoholic beverage within fifty feet of any public right-of-way while on private property open to public view without the express permission of the owner, his agent or the person in lawful possession thereof.

A. Exceptions:

1. In the Downtown, as delineated by the "Downtown Development Standards and Guidelines" as approved by the City Council, the sale and consumption of alcohol within the public right-of-way may be allowed in conjunction with an event sponsored or conducted by the Downtown Lodi Partnership. Said event shall have an alcoholic beverage license issued by the State of California Department of Alcoholic Beverage Control and written approval of the City Manager or his designee.
2. Sidewalk Seating Areas as defined in Chapter 12.04 "Encroachments."

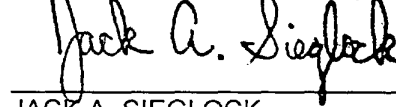
Section 2. - No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 3. - Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

Section 4. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 5. This ordinance shall be published one time in the "Lodi News Sentinel", a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this 16<sup>th</sup> day of September, 1998



JACK A. SIEGLOCK  
Mayor

Attest:



ALICE M. REIMCHE  
City Clerk

State of California  
County of San Joaquin, ss.

I, Alice M. Reimche, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1666 was introduced at a regular meeting of the City Council of the City of Lodi held September 2, 1998 and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held September 16, 1998, by the following vote:

Ayes:	Council Members – Johnson, Land, Mann, Pennino and Sieglock (Mayor)
Noes:	Council Members – None
Absent:	Council Members – None
Abstain:	Council Members – None

I further certify that Ordinance No. 1666 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.



ALICE M. REIMCHE  
City Clerk

Approved as to Form:



RANDALL A. HAYS  
City Attorney